

quantity variation is such as to cause an increase in the time necessary for completion. The contracting officer must receive the request in writing within 10 days from the beginning of the period of delay. However, the contracting officer may extend this time limit before the date of final settlement of the contract. The contracting officer shall ascertain the facts and make any adjustment for extending the completion date that the findings justify.

11.703 Contract clauses.

(a) The contracting officer shall insert the clause at 52.211-16, Variation in Quantity, in solicitations and contracts, if authorizing a variation in quantity in fixed-price contracts for supplies or for services that involve the furnishing of supplies.

(b) The contracting officer may insert the clause at 52.211-17, Delivery of Excess Quantities, in solicitations and contracts, when a fixed-price supply contract is contemplated.

(c) The contracting officer shall insert the clause at 52.211-18, Variation in Estimated Quantity, in solicitations and contracts when a fixed-price construction contract is contemplated that authorizes a variation in the estimated quantity of unit-priced items.

[48 FR 42159, Sept. 19, 1983, as amended at 54 FR 34753, Aug. 21, 1989. Redesignated and amended at 60 FR 48241, Sept. 18, 1995; 64 FR 10538, Mar. 4, 1999]

Subpart 11.8—Testing

SOURCE: 62 FR 51230, Sept. 30, 1997, unless otherwise noted.

11.801 Preaward in-use evaluation.

Supplies may be evaluated under comparable in-use conditions without a further test plan, provided offerors are so advised in the solicitation. The results of such tests or demonstrations may be used to rate the proposal, to determine technical acceptability, or otherwise to evaluate the proposal (see 15.305).

PART 12—ACQUISITION OF COMMERCIAL ITEMS

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AUTHORITY: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

SOURCE: 60 FR 48241, Sept. 18, 1995, unless otherwise noted.

12.000 Scope of part.

This part prescribes policies and procedures unique to the acquisition of commercial items. It implements the Federal Government's preference for the acquisition of commercial items contained in Title VIII of the Federal Acquisition Streamlining Act of 1994 (Public Law 103-355) by establishing acquisition policies more closely resembling those of the commercial marketplace and encouraging the acquisition of commercial items and components.

12.001 Definition.

Subcontract, as used in this part, includes, but is not limited to, a transfer of commercial items between divisions, subsidiaries, or affiliates of a contractor or subcontractor.

Subpart 12.1—Acquisition of Commercial Items—General

12.101 Policy.

Agencies shall—

(a) Conduct market research to determine whether commercial items or nondevelopmental items are available that could meet the agency's requirements;

(b) Acquire commercial items or nondevelopmental items when they are available to meet the needs of the agency; and

(c) Require prime contractors and subcontractors at all tiers to incorporate, to the maximum extent practicable, commercial items or nondevelopmental items as components of items supplied to the agency.

12.102 Applicability.

(a) This part shall be used for the acquisition of supplies or services that meet the definition of commercial items at section 2.101.

(b) Contracting officers shall use the policies in this part in conjunction with the policies and procedures for solicitation, evaluation and award prescribed in part 13, Simplified Acquisition Procedures; part 14, Sealed Bidding; or part 15, Contracting by Negotiation, as appropriate for the particular acquisition.

(c) Contracts for the acquisition of commercial items are subject to the policies in other parts of this chapter. When a policy in another part of this chapter is inconsistent with a policy in this part, this part 12 shall take precedence for the acquisition of commercial items.

(d) The definition of commercial item in section 2.101 uses the phrase “purposes other than governmental purposes.” These purposes are those that are not unique to a government.

(e) This part shall not apply to the acquisition of commercial items—

(1) At or below the micro-purchase threshold;

(2) Using the Standard Form 44 (see 13.306);

(3) Using the imprest fund (see 13.305);

(4) Using the Governmentwide commercial purchase card; or

(5) Directly from another Federal agency.

(f)(1) Contracting officers may treat any acquisition of supplies or services that, as determined by the head of the agency, are to be used to facilitate defense against or recovery from nuclear, biological, chemical, or radiological attack, as an acquisition of commercial items.

(2) A contract in an amount greater than \$15,000,000 that is awarded on a sole source basis for an item or service treated as a commercial item under paragraph (f)(1) of this section but does not meet the definition of a commercial item as defined at FAR 2.101 shall not be exempt from—

(i) Cost accounting standards (see Subpart 30.2); or

(ii) Cost or pricing data requirements (see 15.403).